

107TH CONGRESS
2D SESSION

S. 2430

To provide for parity in regulatory treatment of broadband services providers and of broadband access services providers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2002

Mr. BREAU (for himself, Mr. NICKLES, Mr. CLELAND, Mr. BROWBACK, Mr. MILLER, Mrs. HUTCHISON, Mr. HUTCHINSON, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for parity in regulatory treatment of broadband services providers and of broadband access services providers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Broadband Regulatory
5 Parity Act of 2002”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The cable modem service offered by cable
9 operators for high-speed access to the Internet is

1 functionally equivalent to, and competes with, digital
2 subscriber line service offered by local exchange car-
3 riers.

4 (2) Cable modem services and digital subscriber
5 line services are subject to disparate regulatory
6 treatment by the Federal Government and by State
7 and local governments.

8 (3) Competing and functionally equivalent prod-
9 ucts and services should be regulated, or not regu-
10 lated, in the same manner, regardless of who pro-
11 vides such products or services.

12 (4) The Federal Communications Commission
13 is best positioned to determine which, if any, regu-
14 latory requirements for broadband access services
15 should be retained and which, if any, should be
16 eliminated.

17 (5) The Commission should be required to en-
18 sure that providers of broadband services are regu-
19 lated in an equivalent manner, regardless of the
20 platform used to provide such services.

21 (6) Government regulation should not favor or
22 advantage one class of competitors among competi-
23 tors offering similar products or services.

24 (7) The deployment of digital subscriber line
25 service has been restrained by regulatory require-

1 ments that are inappropriate for a competitive serv-
 2 ice offered by various non-dominant providers.

3 (8) Inappropriate regulation imposes needless
 4 costs and results in higher consumer costs.

5 (9) Lower consumer costs will accelerate de-
 6 mand for high-speed Internet access services.

7 (10) Regulatory certainty and parity will pro-
 8 vide incentives to increase deployment of high-speed
 9 Internet services, bringing the benefits of such serv-
 10 ices to communities in the form of enhancements in
 11 medicine, education, national security, work from
 12 home, and other benefits.

13 (11) The United States lags behind many other
 14 countries in the deployment of high-speed data serv-
 15 ices.

16 (12) When all providers of broadband services
 17 compete under the same rules, consumers will ben-
 18 efit from increased choices and lower prices.

19 **SEC. 3. PARITY IN REGULATORY TREATMENT OF**
 20 **BROADBAND SERVICE PROVIDERS AND**
 21 **BROADBAND ACCESS SERVICE PROVIDERS.**

22 (a) IN GENERAL.—Part II of title II of the Commu-
 23 nications Act of 1934 (47 U.S.C. 251 et seq.) is amended
 24 by adding at the end the following new section:

1 **“SEC. 262. PARITY IN REGULATORY TREATMENT OF**
 2 **BROADBAND SERVICE PROVIDERS AND**
 3 **BROADBAND ACCESS SERVICE PROVIDERS.**

4 “(a) IN GENERAL.—Notwithstanding any other pro-
 5 vision of law, the Commission shall, not later than 120
 6 days after the date of the enactment of the Broadband
 7 Regulatory Parity Act of 2002, prescribe regulations to
 8 ensure that—

9 “(1) all broadband services, and all broadband
 10 access services, are subject to the same regulatory
 11 requirements, or no regulatory requirements;

12 “(2) all providers of broadband services, and all
 13 providers of broadband access services, are subject
 14 to the same regulatory requirements, or no regu-
 15 latory requirements, with respect to the provision of
 16 such services and the facilities and equipment used
 17 to provide such services in the provision of such
 18 services; and

19 “(3) paragraphs (1) and (2) are implemented
 20 without increasing the regulatory requirements ap-
 21 plicable to any provider of broadband services, or
 22 broadband access services, on any such service or on
 23 any facilities or equipment used to provide any such
 24 service in the provision of such service.

25 “(b) PROHIBITION ON STATE JURISDICTION.—Not-
 26 withstanding any other provision of law, broadband serv-

ices and broadband access services, and the facilities and equipment used to provide such services in the provision of such services, shall not be subject to the jurisdiction of any State.

“(c) OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS TO INTERNET SERVICE PROVIDERS.—

Notwithstanding subsection (a), each incumbent local exchange carrier has the duty to provide all Internet service providers with the telecommunications necessary for such provider to provide broadband access service to its subscribers. Such telecommunications shall be offered on rates, terms, and conditions that are just and reasonable.

“(d) SAVINGS PROVISIONS.—(1) Nothing in this section affects the requirements of section 271.

“(2) Nothing in this section affects the obligations of incumbent local exchange carriers under section 251(c) to provide requesting telecommunications carriers with services and access to facilities and equipment necessary for the provision of switch-based voice telecommunications service.

“(3) Nothing in this section precludes or affects any tariff filed by the National Exchange Carrier Association or any rural telephone company, and any such tariff may continue to include broadband services.

“(4) Nothing in this section affects section 251(f).”.

1 (b) DEFINITIONS.—Section 3 of the Communications
2 Act of 1934 (47 U.S.C. 153) is amended—

3 (1) by redesignating paragraphs (20) through
4 (52) as paragraphs (22) through (54), respectively;
5 and

6 (2) by inserting after paragraph (19) the fol-
7 lowing new paragraphs:

8 “(20) BROADBAND SERVICE.—The term
9 ‘broadband service’ means any service that is used
10 to provide access to the Internet and consists of or
11 includes the offering of a capability to transmit in-
12 formation at a rate that is generally not less than
13 256 kilobits per second in at least one direction.

14 “(21) BROADBAND ACCESS SERVICE.—The
15 term ‘broadband access service’ means a service that
16 combines computer processing, information storage,
17 protocol conversion, and wire routing with trans-
18 mission to enable users to access Internet content
19 and services.”.

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